

BOBBY RAYFORD WILLIAMS,	)	
	)	No. C 09-00345 JW (PR)
Petitioner,	)	
	)	ORDER OF DISMISSAL
vs.	)	
	)	
R. K. WONG, Warden,	)	
	)	
Respondent.	)	
	)	

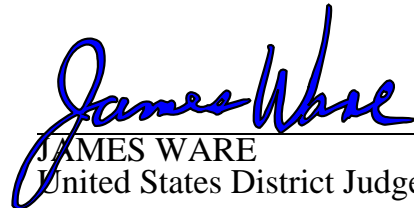
Petitioner claims that he discovered for the first time a Rules Violation Report (“RVR”) from October 2004 his central file while preparing for a parole consideration hearing in October 2006. (Pet. 3.) Petitioner claims that he never received a copy of the RVR, which was dismissed after a finding of not guilty. (Id. at 4.) Petitioner alleges that defendants’ failure to give proper notice and to expunge the dismissed RVR violated his right to due process under Wolff v. McDonnell, 418 U.S. 539, 556 (1974). Petitioner's only prayer for relief is that the RVR be expunged from his record.

1 Since petitioner is challenging the conditions of his confinement, the petition  
2 for a writ of habeas corpus is DISMISSED without prejudice to filing a civil rights  
3 complaint under 42 U.S.C. § 1983. The Ninth Circuit has made clear that habeas  
4 jurisdiction is absent, and a § 1983 action proper, where, as here, a successful  
5 challenge will not necessarily shorten the prisoner's sentence. See Ramirez v.  
6 Galaza, 334 F.3d 850, 859 ( 9th Cir. 2003). Moreover, requests to expunge records  
7 are traditionally brought as civil rights claims. See, e.g., Paul v. Davis, 424 U.S.  
8 693, 711- 714 (1976); Reyes v. Supervisor of DEA, et al., 834 F. 2d 1093, 1097 (1st  
9 Cir. 1987) (no due process claim for false information maintained by police  
10 department); Pruett v. Levi, 622 F.2d 256, 258 (6th Cir. 1980) (mere existence of  
11 inaccuracy in FBI criminals files does not state constitutional claim).

### 12 CONCLUSION

13 For the foregoing reasons, the petition for a writ of habeas corpus is  
14 DISMISSED without prejudice.

15 DATED: June 8, 2009

16   
17 JAMES WARE  
18 United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

BOBBY RAYFORD WILLIAMS,

Petitioner,

v.

R. K. WONG, Warden,

Respondent.

Case Number: CV09-00345 JW

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 6/10/2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Bobby Rayford Williams C-33295  
San Quentin State Prison  
San Quentin, Ca 94974

Dated: 6/10/2009

Richard W. Wieking, Clerk  
/s/ By: Elizabeth Garcia, Deputy Clerk